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§19–345.1.

(a) A facility shall provide the resident with written notice of:

(1) Any proposed discharge or transfer; and

(2) The opportunity for a hearing in accordance with the provisions of this section before the discharge or transfer.

(b) The Department shall prepare and provide each facility with a standardized form that provides, in clear and simple language, at least the following information:

(1) Notice of the intended discharge or transfer of the resident, including the proposed date of the intended discharge or transfer, which may change as a result of an appeal or the discharge planning process;

(2) Each reason for the discharge or transfer;

(3) The location to which the resident will be discharged or transferred, which may change as a result of an appeal or the discharge planning process;

(4) The name of the social worker or other professionally qualified staff, which may change during the discharge planning process, who:

(i) Is designated to provide social services and discharge planning services to the resident in connection with the discharge or transfer; and

(ii) Will be responsible for the development of the post discharge plan of care under subsection (g) of this section;

(5) A proposed date within 10 days after the date of the notice for a meeting between the resident, the resident's representative, and facility staff to develop the post discharge plan of care under subsection (g) of this section;

(6) The right of the resident to request a hearing;

(7) The right of the resident to consult with any lawyer the resident chooses;

(8) The availability of the services of the Legal Aid Bureau, the Older American Act Senior Legal Assistance Programs, and other agencies that may provide assistance to individuals who need legal counsel;

(9) The availability of the Long–Term Care Ombudsman Program to assist the resident; and

(10) The provisions of this section.

(c) Except as otherwise provided in this section, at least 30 days before the facility involuntarily transfers or discharges a resident, the facility shall:

(1) Provide to the resident the written notice required under subsection (a) of this section; and

(2) Provide the written notice required under subsection (a) of this section to:

(i) The resident;

(ii) The next of kin, guardian, or any other individual known to have acted as the resident's representative, if any;

(iii) The Long–Term Care Ombudsman; and

(iv) The Department.

(d) (1) (i) In accordance with regulations adopted by the Secretary, the facility shall provide the resident with an opportunity for a hearing on the proposed transfer or discharge.

(ii) The regulations adopted by the Secretary may provide for the establishment of an escrow account when:

1. The basis for the discharge is nonpayment; and

2. The resident continues to reside in the facility while the appeal is pending.

(2) Except as otherwise provided in this subsection, hearings on proposed transfers or discharges shall be conducted in accordance with the provisions of Title 10, Subtitle 2 of the State Government Article and the Medicaid Fair Hearing Procedures.

(3) Any hearing on a proposed discharge or transfer of a resident:

(i) Is not a contested case as defined in § 10–202 of the State Government Article; and

(ii) May not include the Secretary as a party.

(4) A decision by an administrative law judge on a proposed discharge or transfer of a resident:

(i) Is not a decision of the Secretary;

(ii) Unless appealed, is final and binding on the parties; and

(iii) May be appealed in accordance with § 10–222 of the State Government Article as if it were a contested case but the appeal does not automatically stay the decision of the administrative law judge.

(e) The facility shall provide the written notice required in subsection (a) of this section as soon as practicable before discharge or transfer if:

(1) An emergency exists and health or safety of the resident or other residents would be placed in imminent and serious jeopardy if the resident were not transferred or discharged from the facility as soon as possible; or

(2) The resident has not resided in the facility for 30 days.

(f) If the information in the notice provided under subsection (c) of this section changes before the discharge or transfer, the facility shall provide the changes to the recipients of the notice as soon as practicable after the new information becomes available.

(g) (1) Before any discharge or transfer and subject to paragraphs (4) and (5) of this subsection, a facility shall develop a post discharge plan of care for the resident to assist the resident with adjusting to the resident's new living environment and that:

(i) Addresses the resident's post discharge goals of care and treatment preferences; and

(ii) Identifies each of the resident's reasonably anticipated medical and basic needs after discharge or transfer and establishes a plan for meeting those needs.

(2) The facility shall designate a social worker or other professionally qualified staff member to coordinate the development of the resident's post discharge plan of care.

(3) The facility shall, if possible, meet with the resident and, with the resident's consent, the resident's representative within 10 days after providing the notice required under subsection (a) of this section to discuss the post discharge plan of care for the resident.

(4) (i) The resident's post discharge plan of care shall be developed with the participation of the resident and, with the resident's consent, the resident's representative.

(ii) If the post discharge plan of care was developed without the participation of the resident or the resident's representative, the facility shall include in the resident's medical record an explanation of why the resident or the resident's representative did not participate.

(5) The resident's post discharge plan of care shall be developed in consultation with:

(i) The resident's attending physician;

(ii) A registered nurse responsible for the care of the resident; and

(iii) Any other appropriate staff or professional involved with meeting the resident's medical needs.

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